

ORDINANCE NO. 822

**AN ORDINANCE AMENDING CHAPTER 136, “STORMWATER MANAGEMENT”,
OF THE CODE OF THE CITY OF WESTMINSTER, TO ADD PROVISIONS
AUTHORIZED BY STATE LAW AND REGULATIONS RELATING TO
GRANDFATHERING OF PROJECTS THAT WERE INITIATED PRIOR TO MAY 4,
2010, AND TO MAKE OTHER MODIFICATIONS CONSISTENT WITH CARROLL
COUNTY STORMWATER MANAGEMENT PRACTICES**

WHEREAS, the Mayor and Common Council of Westminster (“the City”) have been given authority and responsibility by the State for planning, design and inspection of stormwater management facilities within the City limits pursuant to Md. Code Ann., Env. Art., Title 4, Subtitle 2; and

WHEREAS, the Maryland Department of the Environment (MDE) is the State agency charged with the regulation and oversight of stormwater management and to that end has adopted regulations codified at COMAR 26.17.02.01 *et seq.*; and

WHEREAS, pursuant to Ordinance No. 813, the City amended its stormwater management ordinance, as codified in Chapter 136 of the City Code; and

WHEREAS, prior to introduction of the amendments to Chapter 136 of the City Code set forth in Ordinance No. 813, the proposed ordinance was approved by MDE; and

WHEREAS, after the approval of the City’s proposed ordinance by MDE, MDE amended its regulations to permit certain development activities to proceed under the stormwater management requirements in effect prior to May 4, 2010, a process to which the regulations refer as “grandfathering”; and

WHEREAS, the City deems it to be in the best interests of the public to incorporate the grandfathering provisions now permitted by MDE’s regulations; and

WHEREAS, certain stormwater management functions required by State law are performed for the City by officials of Carroll County, Maryland; and

WHEREAS, in order to make the City's stormwater management regulations consistent with those of Carroll County, the County has recommended additional amendments to Chapter 136; and

WHEREAS, the Mayor and Common Council deem the proposed amendments advisable and finds the enactment thereof to be in the best interests of the City in order to best protect the environment from adverse impacts pertaining to the control of stormwater and to comply with the dictates of State law and regulations.

NOW THEREFORE BE IT ENACTED AND ORDINANCE by the Mayor and Common Council of Westminster, that Chapter 136, "Stormwater Management", of the Westminster City Code, be and is hereby amended to read as follows:

§ 136-1. Purpose; authority.

Purpose and authority.

A. The purpose of this chapter is to protect, maintain, and enhance the public health, safety, and general welfare by establishing minimum requirements and procedures that control the adverse impacts associated with increased stormwater runoff. The goal is to manage stormwater by using environmental site design (ESD) to the maximum extent practicable (MEP) to maintain after development as nearly as possible, the predevelopment runoff characteristics, and to reduce stream channel erosion, pollution, siltation and sedimentation, and local flooding, and use appropriate structural best management practices (BMPs) only when necessary. This will restore, enhance, and maintain the chemical, physical, and biological integrity of streams, minimize damage to public and private property, and reduce the impacts of land development.

B. This chapter is adopted pursuant to the Environment Article, Title 4, Subtitle 2, of the Annotated Code of Maryland, Article 23A of the Annotated Code of Maryland, and the City Charter, and shall apply to all development occurring within the City of Westminster. The application of this chapter shall be the minimum stormwater management requirements and shall not be deemed a limitation or repeal of any other powers granted by state statute. The City of Westminster Department of Public Works shall be responsible for the coordination and enforcement of this chapter. The City may engage and/or hire agents, consultants, registered engineers, attorneys and other with regard to the requirements of this chapter and may assess the charges and expenses associated therewith to the applicant. This chapter applies to all new and redevelopment projects that have not received final approval for

erosion and sediment control and stormwater management plans by May 4, 2010.

§ 136-2. Incorporation of documents by reference.

For the purpose of this chapter, the following documents are incorporated by reference:

A. The 2000 Maryland Stormwater Design Manual, Volumes I and II (Maryland Department of the Environment, April 2000),² and the Carroll County Supplement To The 2000 Maryland Stormwater Design Manual (August 2010), and all subsequent revisions, are incorporated by reference and shall serve as the official guide for stormwater principles, methods, and practices.

B. USDA Natural Resources Conservation Service Maryland Conservation Practice Standard Pond Code 378 (January 2000).

§ 136-3. Definitions.

In this chapter the following terms have the meanings indicated. Any term not defined in this chapter shall have the meaning as defined in any chapter of the Code. Any term not defined in the Code in any chapter shall have its generally accepted meaning.

ADMINISTRATION — The Maryland Department of the Environment (MDE), Water Management Administration (WMA).

ADVERSE IMPACT — Any deleterious effect on waters or wetlands, including the quality, quantity, surface area, species composition, aesthetics or usefulness for human or natural uses which are or may potentially be harmful or injurious to human health, welfare, safety or property, to biological productivity, diversity, or stability or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

AGRICULTURAL LAND MANAGEMENT PRACTICES — Those methods and procedures used in the cultivation of land in order to further crop and livestock production and conservation of related soil and water resources.

APPLICANT — Any person, firm, or governmental agency that executes the necessary forms to procure official approval of a project or a permit to carry out construction of project.

AQUIFER — A porous water-bearing geologic formation generally restricted to materials capable of yielding an appreciable supply of water.

BEST MANAGEMENT PRACTICES or BMP — A structural device or nonstructural practice designed to temporarily store or treat stormwater runoff in order to mitigate flooding, reduce pollution, and provide other amenities.

CFR — Code of Federal Regulations.

CHANNEL PROTECTION STORAGE VOLUME (CPV) — The volume used to design structural management practices to control stream channel erosion. Methods for calculating the CPV are specified in the 2000 Maryland Stormwater Design Manual.

CITY — The City of Westminster.

CLEARING — The removal of trees and brush from the land but shall not include the ordinary mowing of grass.

CODE — Code of the City of Westminster.

COMAR — Code of Maryland Regulations.

COMMISSION — The City of Westminster Planning and Zoning Commission.

CONCEPT PLAN - The first of three required plan approvals that includes the information necessary to allow an initial evaluation of a proposed project.

COUNTY — The Board of Commissioners of Carroll County.

DAM BREACH INUNDATION AREA — The area potentially inundated by a sudden dam failure.

DEPARTMENT — The Department of Public Works of the City of Westminster.

DESIGN MANUAL — The 2000 Maryland Stormwater Design Manual and all subsequent revisions, together with the Carroll County Supplement To The 2000 Maryland Stormwater Design Manual (August 2010), which collectively serve as the official guide for stormwater management principles, methods, and practices

DETENTION STRUCTURE — A permanent structure for the temporary storage of runoff, which is designed so as not to create a permanent pool of water.

DEVELOP LAND - To change the runoff characteristics of a parcel of land in conjunction with residential, commercial, industrial, or institutional construction or alteration.

DEVELOPER — A person who engages in development or who owns property upon which a development is proposed or accomplished.

DEVELOPMENT — Any change to improved or unimproved real estate, including, but not limited to, buildings and other structures, grading, dredging, filling, paving, clearing, excavation, dumping, extraction or storage of soil or minerals, the storage of equipment or material; and the subdivision of land including off-conveyances.

DIRECTOR — The Director of the Department of Public Works of the City of Westminster.

DRAINAGE AREA — That area contributing runoff to a single point measured in a

horizontal plane, which is enclosed by a ridgeline.

EASEMENT — A grant or reservation by the owner of land for the use of such land by others for a specific purpose or purposes, and which must be included in the conveyance of land affected by such easement.

ENGINEER — A professional engineer licensed in the State of Maryland, proficient in stormwater management design.

ENVIRONMENTAL SITE DESIGN (ESD) - Using small-scale stormwater management practices, nonstructural techniques, and better site planning to mimic natural hydrologic runoff characteristics and minimize the impact of land development on water resources. Methods for designing ESD practices are specified in the Design Manual.

EXEMPTION - Those land development activities that are not subject to the stormwater management requirements contained in this chapter.

EXTREME FLOOD VOLUME (QF) — The storage volume required to control those infrequent but large storm events in which overbank flows reach or exceed the boundaries of the one-hundred-year flood plain.

FLOODPLAIN — That land adjacent to a body of water or stream inundated by the base flood.

FINAL STORMWATER MANAGEMENT PLAN - The last of three required plan approvals that includes the information necessary to allow all approvals and permits to be issued by the Department.

FLOW ATTENUATION — Prolonging the flow time of runoff to reduce the peak discharge.

GRADING — Any act by which soil is cleared, stripped, stockpiled, excavated, scarified, filled or any combination thereof.

IMPERVIOUS AREA - Any surface that does not allow stormwater to infiltrate into the ground.

INFILTRATION — The passage or movement of water into the soil surface.

LAND SURVEYOR - A professional land surveyor registered in the State of Maryland, proficient in drainage design.

MAXIMUM EXTENT PRACTICABLE (MEP) - Designing stormwater management systems so that all reasonable opportunities for using ESD planning techniques and treatment practices are exhausted and only where absolutely necessary, a structural BMP is implemented.

OFF-SITE STORMWATER MANAGEMENT — The design and construction of a facility necessary to control stormwater from more than one development.

ON-SITE STORMWATER MANAGEMENT — The design and construction of systems necessary to control stormwater within an immediate development.

OVERBANK FLOOD PROTECTION VOLUME (Q_p) - The volume controlled by structural practices to prevent an increase in the frequency of out-of-bank flooding generated by development. Methods for calculating the overbank flood protection volume are specified in the Design Manual.

PERSON — Includes the federal government, the state, any county, municipal corporation, or other political subdivision of the state, or any of their units, or an individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, or any other entity.

PLANNING TECHNIQUES - A combination of strategies employed early in project design to reduce the impact from development and to incorporate natural features into a stormwater management plan.

RECHARGE VOLUME (Re_v) — That portion of the water quality volume used to maintain groundwater recharge rates at development sites. Methods for calculating the recharge volume are specified in the Design Manual.

REDEVELOPMENT — Any construction, alteration, or improvement performed on sites where existing land use is commercial, industrial, institutional, or multifamily residential and existing site impervious area exceeds 40 percent.

RETENTION STRUCTURE — A permanent structure that provides for the storage of runoff by means of a permanent pool of water.

RETROFITTING — The implementation of ESD practices, the construction of a structural BMP, or the modification of an existing structural BMP in a previously developed area to improve water quality over current conditions.

SCD — the Carroll County Soil Conservation District.

SEDIMENT — Soils or other surficial materials transported or deposited by the action of wind, water, ice or gravity as a product of erosion.

SITE — Any tract, lot, or parcel of land, or combination of tracts, lots, parcels of land that are in one ownership, or are contiguous and in diverse ownership, where development is to be performed as part of a unit, subdivision, or project.

SITE DEVELOPMENT (PRELIMINARY) PLAN - The second of three required plan approvals that includes the information necessary to allow a detailed evaluation of a proposed project.

STABILIZATION — The prevention of soil movement by any of various vegetative or structural means.

STORMWATER - Water that originates from a precipitation event.

STORMWATER MANAGEMENT SYSTEM - Natural areas, ESD practices, stormwater management measures, and any other structure through which stormwater flows, infiltrates, or discharges from a site.

STRIPPING — Any activity that removes the vegetative surface cover, including tree removal, clearing, grubbing and storage or removal of topsoil.

VARIANCE - The modification of the minimum stormwater management requirements for specific circumstances such that strict adherence to the requirements would result in unnecessary hardship and not fulfill the intent of this chapter.

WAIVER - The reduction of stormwater management requirements by the Department for a specific development on a case-by-case review basis.

WATERCOURSE - Any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine or wash, in and including any adjacent area that is subject to inundation from overflow or floodwater.

WATER QUALITY VOLUME (WQv) - The volume needed to capture and treat 90 percent of the average annual rainfall events at a development site. Methods for calculating the water quality volume are specified in the Design Manual.

WATERSHED — The total drainage area contributing runoff to a single point.

WETLAND — An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as “hydrophytic vegetation.” a wetland area is delineated according to the 1987 U.S. Army Corps of Engineers Wetlands Delineation Manual.

§ 136-3.1. Grandfathering.

A. In this section, the following terms have the meanings indicated:

1. “Administrative waiver” means a decision by the City pursuant to this chapter to allow the construction of a development to be governed by the stormwater management

ordinance in effect as of May 4, 2010, but does not include a waiver granted pursuant to Section 136-7 of this chapter.

2. “Approval” means a determination, documented in writing, by the City that the materials submitted by or on behalf of the property owner in support of the property owner’s request for approval of a development plan, including a stormwater management plan, comply with the requirements of a specified stage in the City’s development review process, and a mere acknowledgement by the City that submitted material has been received for review does not constitute an approval.

3. “Final project approval” means approval of the final stormwater management plan and erosion and sediment control plan required to construct a project’s stormwater management facilities.

4. “Preliminary project approval” means an approval as part of the City’s preliminary development or planning review process.

B. Preliminary project approval will not be granted until the property owner has submitted information to the City that includes, at a minimum:

1. The number of planned dwelling units or lots;
2. The proposed project density;
3. The proposed size and location of all land uses for the project; and
4. Any other information required by the City including, but not limited to:

(a) the proposed alignment, location, and construction type and standard for all roads, access ways, and areas of vehicular traffic;

(b) a demonstration that the methods by which the development will be supplied with water and wastewater service are adequate; and

(c) the size, type, and general location of all proposed wastewater and water system infrastructure.

C. A project will not be deemed to have obtained a final project approval until the property owner has secured bonding and/or financing for final development plans if either is required by law or by agreement between the City and the property owner.

D. The City may grant an administrative waiver to a development that received a preliminary project approval prior to May 4, 2010.

E. Except as provided for in Subsection H. of this section, an administrative waiver shall expire on:

1 May 4, 2013, if the development does not receive final project approval prior to that date; or

2. May 4, 2017, if the development receives final project approval prior to May 4, 2013.

F. All construction authorized pursuant to an administrative waiver must be completed by May 4, 2017 or, if the waiver is extended as provided in Subsection G. of this section, by the expiration date of the waiver extension.

G. An administrative waiver shall only be extended if, by May 4, 2010, the development:

1. Has received a preliminary project approval; and

2. Was subject to a development rights and responsibilities agreement, a tax increment financing approval, or an annexation agreement that provides a date for completion of development that is after the date on which the administrative waiver would otherwise expire.

H. Administrative waivers extended pursuant to Subsection G. of this section shall expire upon the date set forth for completion of the development in the development rights and responsibilities agreement, the tax increment financing approval, or the annexation agreement.

§ 136-4. Scope.

No person shall develop any land for residential, commercial, industrial, or institutional uses without providing stormwater management measures that control or manage runoff from such developments, except as provided within this section. Stormwater management measures must be designed consistent with the Design Manual, and constructed according to an approved plan, for new development or the policies stated in Section 136-8 of this chapter for redevelopment as appropriate.

§ 136-5. Exemptions.

The following development activities are exempt from the provisions of this chapter and the requirements of providing stormwater management:

A. Agricultural land management practices.

B. Additions or modifications to existing single-family detached residential structures if they comply with Subsection C of this section.

C. Any developments that do not disturb over 5,000 square feet of land area.

D. Land development activities that the Administration determines will be regulated

under specific state laws, which provide for managing stormwater runoff.

§ 136-6. Application for exemption.

A person may apply to the Department for a stormwater management exemption by providing a written explanation which describes how the proposed development qualifies for an exemption.

§ 136-7. Waivers; watershed management plans.

A. The Department may grant stormwater management quantitative control waivers only to those projects within areas where watershed management plans have been developed consistent with Subsection E of this section. Written requests for quantitative stormwater management waivers shall be submitted that contain sufficient descriptions, drawings, and any other information that is necessary to demonstrate that ESD has been implemented to the MEP. A separate written waiver request shall be required in accordance with the provisions of this section if there are subsequent additions, extensions, or modifications to a development receiving a waiver.

B. If watershed management plans consistent with Subsection E of this section have not been developed, stormwater management quantitative control waivers may be granted to the following projects provided that it has been demonstrated that ESD has been implemented to the MEP when the Department determines that circumstances exist that prevent the reasonable implementation of quantity control practices.

C. Stormwater management qualitative control waivers apply only to:

(1) In-fill development projects where ESD has been implemented to the MEP and it has been demonstrated that other BMPs are not feasible;

(2) Redevelopment projects if the requirements of Section 136-8 of this chapter are satisfied; or

(3) Sites where the approving agency determines that circumstances exist that prevent the reasonable implementation of ESD to the MEP.

D. Waivers shall only be granted when it has been demonstrated that ESD has been implemented to the MEP and must:

(1) Be on a case-by-case basis;

(2) Consider the cumulative effects of the Department's waiver policy; and

(3) Reasonably ensure the development will not adversely impact stream quality.

E A watershed management plan developed for the purpose of implementing different stormwater management policies for waivers and redevelopment shall:

- (1) Include detailed hydrologic and hydraulic analyses to determine hydrograph timing;
- (2) Evaluate both quantity and quality management and opportunities for ESD implementation;
- (3) Include a cumulative impact assessment of current and proposed watershed development;
- (4) Identify existing flooding and receiving stream channel conditions;
- (5) Be conducted at a reasonable scale;
- (6) Specify where on-site or off-site quantitative and qualitative stormwater management practices are to be implemented;
- (7) Be consistent with the General Performance Standards for Stormwater Management in Maryland found in the Design Manual; and
- (8) Be approved by the Administration.

F. Stormwater management quantitative and qualitative control waivers may be granted for phased development projects if a system designed to meet the State's 2000 regulatory requirements for multiple phases has been constructed by May 4, 2010. The applicant shall demonstrate that it has made all reasonable efforts to incorporate ESD for future phases.

§ 136-8. Redevelopment.

A. Stormwater management plans for development shall provide ESD to the MEP consistent with the Design Manual and the Supplement. Overbank flood protection volume requirements do not apply unless required by Department in uncommon situations such as historic flooding, or extreme erosion where more stormwater control than the minimum required may be necessary.

B. All redevelopment project designs shall reduce those existing site impervious areas within the limit of disturbance (LOD) built in accordance with an approved site plan by at least 50% below conditions existing on the date of the most recent Carroll County geographic information system orthophotography or as depicted on the original approved site plan. Where site conditions prevent the reduction of impervious area, then stormwater management practices shall implement ESD to the MEP for at least 50% of the site's impervious area. When a combination of impervious area reduction and ESD is used, the combined reduced and treated area shall equal no less than 50% of the site's impervious area within the LOD.

Where existing site impervious areas were constructed after July 1, 1984, without an approved stormwater management plan, stormwater management shall be provided in accordance with § 136-10 of this chapter for all impervious surfaces on the parcel.

C. Alternative stormwater management measures may be used to meet the requirements in Subsection B if the owner or developer satisfactorily demonstrates to the Department that impervious area reduction has been maximized and ESD has been implemented to the MEP, Alternative stormwater management measures include, but are not limited to:

- (1) An on-site structural BMP;
- (2) An off-site structural BMP to provide water quality treatment for an impervious area equal to or greater than 70 percent of the existing impervious area;
- (3) A combination of impervious area reduction, ESD implementation, and an on-site structural BMP for an area equal to or greater than 50 percent of the existing site impervious area within the LOD; or
- (4) A combination of impervious area reduction, ESD implementation and an off-site structural BMP for an area equal to or greater than 70 percent of the existing site impervious area within the LOD.

D. The Department's policies for providing stormwater runoff treatment for redevelopment projects if it is proven to the City's satisfaction that the requirements of Subsections A, B, and C, cannot be met are as follows:

- (1) Retrofitting of existing on-site or off-site BMPs that provide inadequate stormwater treatment for the impervious areas draining to them to bring them up to current standards in accordance with the Design Manual and the Supplement. The retrofitted facilities must treat drainage from impervious areas that require additional treatment greater than that required for all site imperviousness within the LOD; or
- (2) Fees paid into a stormwater management fund as established by the City and set forth in the Supplement that are dedicated exclusively to provide stormwater management in the City, and are in addition to the review fees established by Section 136-17 of this chapter.

§ 136-9. Variance.

The Department may grant a written variance from any technical requirement of this chapter, if there are exceptional circumstances applicable to the site such that strict adherence will result in unnecessary hardship and not fulfill the intent of this chapter. A written request, with adequate supporting documentation, for a variance shall be provided to the Department and shall state the specific variances sought and reasons for their granting. The Department shall not grant a variance unless and until sufficient justification is provided by the person developing land that the implementation of ESD to the MEP has been investigated thoroughly. When a variance is granted, the property owner must provide compensatory

storm water management provided in accordance with Section 136-8(d) of this chapter.

§ 136-10. Minimum control requirements.

A. The minimum control requirements established in this section and the Design Manual are as follows:

(1) The Department shall require that the planning techniques, nonstructural practices, and design methods specified in the Design Manual be used to implement ESD to the MEP. The use of ESD planning techniques and treatment practices must be exhausted before any structural BMP is implemented. Stormwater management plans for development projects subject to this chapter shall be designed using ESD sizing criteria, recharge volume, water quality volume, and channel protection storage volume criteria according to the Design Manual. The MEP standard is met when channel stability is maintained, predevelopment groundwater recharge is replicated, nonpoint source pollution is minimized, and structural stormwater management practices are used only if determined to be absolutely necessary.

(2) Control of the 2-year and 10-year frequency storm event is required according to the Design Manual and all subsequent revisions if the Department determines that additional stormwater management is necessary because historical flooding problems exist and downstream floodplain development and conveyance system design cannot be controlled.

(3) The Department may require more than the minimum control requirements specified in this chapter if hydrologic or topographic conditions warrant or if flooding, stream channel erosion, or water quality problems exist downstream from a proposed project.

B. Alternate minimum control requirements may be adopted subject to Administration approval. The Administration shall require a demonstration that alternative requirements will implement ESD to the MEP and control flood damages, accelerated stream erosion, water quality, and sedimentation. Comprehensive watershed studies may also be required.

C. Stormwater management and development plans where applicable, shall be consistent with adopted and approved watershed management plans or flood management plans as approved by the Maryland Department of the Environment in accordance with the Flood Hazard Management Act of 1976.

§ 136-11. Stormwater Management Measures.

The ESD planning techniques and practices and structural stormwater management measures established in this chapter and the Design Manual shall be used, either alone or in combination in a stormwater management plan. A developer shall demonstrate that ESD has been implemented to the MEP before the use of a structural BMP is considered in developing the stormwater management plan.

A. ESD Planning Techniques and Practices.

(1) The following planning techniques shall be applied according to the Design Manual to satisfy the applicable minimum control requirements established in Section 136-10 of this chapter:

- (a) Preserving and protecting natural resources;
- (b) Conserving natural drainage patterns;
- (c) Minimizing impervious area;
- (d) Reducing runoff volume;
- (e) Using ESD practices to maintain 100 percent of the annual predevelopment groundwater recharge volume;
- (f) Using green roofs, permeable pavement, reinforced turf, and other alternative surfaces;
- (g) Limiting soil disturbance, mass grading, and compaction;
- (h) Clustering development; and
- (i) Any practices approved by the Administration.

(2) The following ESD treatment practices shall be designed according to the Design Manual to satisfy the applicable minimum control requirements established in Section 136-10 of this chapter:

- (a) Disconnection of rooftop runoff;
- (b) Disconnection of non-rooftop runoff;
- (c) Sheetflow to conservation areas;
- (d) Rainwater harvesting;
- (e) Submerged gravel wetlands;
- (f) Landscape infiltration;
- (g) Infiltration berms;
- (h) Dry wells;

- (i) Micro-bioretenention;
- (j) Rain gardens;
- (k) Swales;
- (l) Enhanced filters; and
- (m) Any practices approved by the Administration.

(3) The use of ESD planning techniques and treatment practices specified in this section shall not conflict with existing State or City law. The City shall modify planning and zoning ordinances and public works codes to eliminate any impediments to implementing ESD to the MEP according to the Design Manual.

B. Structural Stormwater Management Measures.

(1) The following structural stormwater management practices shall be designed according to the Design Manual to satisfy the applicable minimum control requirements established in Section 136-10 of this chapter:

- (a) Stormwater management ponds;
- (b) Stormwater management wetlands;
- (c) Stormwater management infiltration;
- (d) Stormwater management filtering systems; and
- (e) Stormwater management open channel systems.

(2) The performance criteria specified in the Design Manual with regard to general feasibility, conveyance, pretreatment, treatment and geometry, environment and landscaping, and maintenance shall be considered when selecting structural stormwater management practices.

(3) Structural stormwater management practices shall be selected to accommodate the unique hydrologic or geologic regions of the City.

(4) All barrel pipes and risers in ponds shall be concrete pipe with a minimum fifteen-inch diameter. Inlet and outlet structures shall be made of concrete with a metal inlet or grate.

(5) A non-erosive flow velocity shall be provided at the principal spillway.

(6) All low flow pipes shall have a minimum twelve-inch diameter. Orifices shall be located inside the outlet structure.

(7) All publicly maintained surface stormwater management facilities shall be designed with slopes no steeper than four to one.

(8) All publicly maintained facilities shall have an in-fee access from the bottom of the facility to a public right-of-way, unless an alternative access is approved by the department. This access shall be a minimum 20 feet in width containing a twelve-foot wide paved access road constructed to minimum use-in-common drive standards. The access road shall have a maximum slope of 17% with a maximum cross slope of 3% and a maximum side slope of four to one.

(9) In areas of public maintenance, no loose riprap may be left permanently exposed.

(10) Concentrated flows shall enter surface stormwater management facilities through drop structures and pipes. Riprap inflow ditches down facility slopes may not be allowed.

(11) Pipes shall outfall at the facility bottom. End treatment shall be headwalls.

(12) All pipe outfalls shall have underdrained plunge pools or forebays.

(13) All surface stormwater management facilities shall be underdrained.

(14) Structural stormwater management practices for multilot residential developments shall be deeded to the City in fee simple. For all other developments containing structural measures, the measures shall be protected by easement recorded in the land records of Carroll County and remain unaltered by subsequent property owners. Prior approval shall be obtained from the department before structural stormwater measures are altered.

C. ESD planning techniques and treatment practices and structural stormwater management measures used to satisfy the minimum requirements in Section 136-10 of this chapter must be recorded in the land records of Carroll County and remain unaltered by subsequent property owners. Prior written approval from the Department shall be obtained before any stormwater management practice is altered.

D. Alternative ESD planning techniques and treatment practices and structural stormwater measures may be used for new development runoff control if they meet the performance criteria established in the Design Manual and all subsequent revisions and are approved by the Administration. Practices used for redevelopment projects shall be approved by the Department.

E. For the purposes of modifying the minimum control requirements or design criteria, the owner/developer shall submit to the Department an analysis of the impacts of stormwater flows downstream in the watershed. The analysis shall include hydrologic and hydraulic

calculations necessary to determine the impact of hydrograph timing modifications of the proposed development upon a dam, highway, structure, or natural point of restricted streamflow. The point of investigation is to be established with the concurrence of the Department, downstream of the first downstream tributary whose drainage area equals or exceeds the contributing area to the project or stormwater management facility.

§ 136-12. Specific design criteria.

The basic design criteria, methodologies, and construction specifications subject to the approval of the Department and the Administration, shall be in accordance with the Design Manual.

§ 136-13. Review and approval of plans.

A. For any proposed development, the owner/developer shall submit a stormwater management plan or waiver application to the Department for review and approval. At a minimum, plans shall be submitted for the concept, preliminary and final stormwater management construction phases of project design. Each plan submittal shall include the minimum content specified in Section 136-14 of this chapter and meet the requirements of the Design Manual and Article III of this chapter.

B. The Department shall perform a comprehensive review of the stormwater management plans for each phase of site design. Coordinated comments will be provided for each plan phase that reflect input from all appropriate agencies including, but not limited to the Soil Conservation District (SCD) and the Westminster Department of Planning, Zoning, and Development. All comments from those agencies shall be addressed and approval received at each phase of project design before subsequent submissions.

§ 136-14. Contents and submission of Stormwater Management Plans.

A. The developer shall submit a stormwater management plan that meet the design requirements of this chapter. The plan shall include a concept plan that provides sufficient information for an initial assessment of the proposed project and whether stormwater management can be provided according to this chapter and the Design Manual and the Supplement. Plans submitted for concept approval shall include, but are not limited to:

(1) A map at a scale specified by the Department showing site location, existing natural features, water and other sensitive resources, topography, and natural drainage patterns;

(2) The anticipated location of all proposed impervious areas, buildings, roadways, parking, sidewalks, utilities, and other site improvements;

(3) The location of the proposed limit of disturbance, erodible soils, steep slopes, and areas to be protected during construction;

(4) Preliminary estimates of stormwater management requirements, the selection and location of ESD practices to be used, and the location of all points of discharge from the site;

(5) A narrative that supports the concept design and describes how ESD will be implemented to the MEP; and

(6) Any other information required by the Department.

B. Following concept plan approval by the Department, the owner/developer shall submit site development (preliminary) plans that reflect comments received during the previous review phase. Plans submitted for site development (preliminary) approval shall be of sufficient detail to allow site development to be reviewed and include but are not limited to:

(1) All information provided during the concept plan review phase;

(2) Final site layout, exact impervious area locations and acreages, proposed topography, delineated drainage areas at all points of discharge from the site, and stormwater volume computations for ESD practices and quantity control structures;

(3) A proposed erosion and sediment control plan that contains the construction sequence, any phasing necessary to limit earth disturbances and impacts to natural resources and an overlay plan showing the types and locations of ESD and erosion and sediment control practices to be used;

(4) A narrative that supports the site development design, describes how ESD will be used to meet the minimum control requirements, and justifies any proposed structural stormwater management measure;

(5) Geotechnical investigations, including soil maps, borings, site specific recommendations, and any additional information necessary for the final stormwater management design;

(6) Any other information required by the Department.

C. Following site development approval by the Department, the owner/developer shall submit final erosion and sediment control and stormwater management plans that reflect the comments received during the previous review phase. Plans submitted for final approval shall be of sufficient detail to allow all approvals and permits to be issued according to the following:

(1) Final erosion and sediment control plans shall be submitted according to COMAR 26.17.01.05; and

(2) Final stormwater management plans shall be submitted for approval in the form of construction drawings and be accompanied by a report that includes sufficient information to evaluate the effectiveness of the proposed runoff control design.

D. Reports submitted for final stormwater management plan approval shall include, but are not limited to:

(1) Drainage area maps depicting predevelopment and post development runoff flow path segmentation and land use;

(2) Hydrologic computations of the applicable ESD and unified sizing criteria according to the Design Manual for all points of discharge from the site;

(3) Hydraulic and structural computations for all ESD practices and structural stormwater management measures to be used;

(4) A narrative that supports the final stormwater management design; and

(5) Any other information required by the Department.

E. Construction drawings submitted for final stormwater management plan approval shall include, but are not limited to:

(1) A vicinity map;

(2) Existing and proposed topography and proposed drainage areas, including areas necessary to determine downstream analysis for proposed stormwater management facilities;

(3) Any proposed improvements including location of buildings or other structures, impervious surfaces, storm drainage facilities, and all grading;

(4) The location of existing and proposed structures and utilities;

(5) Any easements and rights-of-way;

(6) The delineation, if applicable, of the 100-year floodplain and any on-site wetlands;

(7) Structural and construction details including representative cross sections for all components of the proposed drainage system or systems, and stormwater management facilities;

(8) All necessary construction specifications;

(9) A sequence of construction;

(10) Data for total site area, disturbed area, new impervious area, and total impervious area;

(11) A table showing the ESD and unified sizing criteria volumes required in the Design Manual;

(12) A table of materials to be used for stormwater management facility planting;

(13) All soil boring logs and locations;

(14) An inspection and maintenance schedule;

(15) Certification by the owner/developer that all stormwater management construction will be done according to this plan;

(16) An as-built certification signature block to be executed after project completion; and

(17) Any other information required by the Department.

F. If a stormwater management plan involves direction of some or all runoff off of the site, it is the responsibility of the developer to obtain from adjacent property owners any easements or other necessary property interests concerning flowage of water. Approval of a stormwater management plan does not create or affect any right to direct runoff onto adjacent property without that property owner's permission.

§ 136-15. Preparation of Stormwater Management Plans.

A. The design of stormwater management plans shall be prepared by a land surveyor or engineer licensed in the State of Maryland.

B. If a stormwater BMP requires a dam safety permit from the Administration or small pond approval from the SCD, the design shall be prepared by an engineer.

§ 136-16. Permit requirements.

A. A grading or building permit may not be issued for any parcel or lot unless final sediment control and stormwater management plans have been approved as meeting all of the requirements of the Design Manual and this chapter or exempted by the Department. Where appropriate, a building permit may not be issued without:

(1) Either:

[A] For all stormwater management facilities other than facilities serving multiple lots in residential subdivisions, Recorded easements for the stormwater management facility and recorded easements to provide adequate access for inspection and maintenance from a public right-of-way; OR

[B] For stormwater management facilities serving multiple lots in residential subdivisions, a dedication to public use of the parcel upon which such facilities are located and an agreement to execute a deed transferring fee simple ownership of such parcel and facilities to the City upon satisfactory completion of construction of such facilities in accordance with the design manual and acceptance of the construction by the City and before any grading or building permit may be issued for any lot served by the facilities; and

(2) A recorded stormwater management maintenance agreement as described in Section 136-24 of this chapter; and

(3) A performance bond as described in Section 136-20 of this chapter.

B. If applicable, a building permit may not be issued without permission from adjacent property owners to discharge outside of existing drainage courses. These discharge ways shall be protected by easement, and recorded in the Land Records of Carroll County.

C. If applicable, a building permit may not be issued without a dam breach inundation area protection easement which covers on- and off-site areas and is recorded in the Land Records of Carroll County.

§ 136-17. Fees.

Nonrefundable review fees will be collected for the cost of plan review, administration, and management of the permitting process, for all projects subject to this chapter and for inspection of all projects subject to this chapter, as well as inspection and maintenance of City-owned facilities. A permit fee schedule shall be established by the City based upon the relative complexity of the project and long-term maintenance obligations and may be amended from time to time.

§ 136-18. Permit suspension and revocation.

Any grading or building permit issued by the Department may be suspended or revoked after written notice is given to the permittee for any of the following reasons:

- A. Any violation(s) of the conditions of the stormwater management plan approval;
- B. Changes in site runoff characteristics upon which an approval or waiver was granted;
- C. Construction is not in accordance with the approved plan;
- D. Noncompliance with a correction notice(s) or stop-work order(s) issued for the

construction of the stormwater management practice; or

E. Immediate danger exists in a downstream area in the opinion of the Department.

§ 136-19. Permit conditions.

In granting an approval for any phase of site development, the Department may impose such conditions that it deems necessary to ensure compliance with the provisions of this chapter and the preservation of public health and safety.

§ 136-20. Requirement; contents; release.

The Department shall require from the applicant a surety or cash bond, irrevocable letter of credit or other means of security acceptable to the Department prior to the issuance of any building and/or grading permit for construction of a development requiring stormwater management. The amount of security shall not be less than the total estimated construction cost of all stormwater management facilities. The bond required in this section shall include provisions relative to forfeiture for failure to complete work specified in the approved stormwater management plan, compliance with all of the provisions of this chapter and other applicable laws and regulations and any time limitations. The bond shall not be fully released without a final inspection of completed work by the Department or its authorized agent, submission of as-built plans and a certification of completion by the Department that all stormwater facilities comply with the approved plan and the provisions of this chapter. A procedure may be used to release parts of the bond held by the Department after various stages of construction have been completed and accepted by the Department. The procedures used for partially releasing performance bonds must be specified by the Department in writing prior to stormwater management plan approval.

§ 136-21. Required plan certifications.

All plans submitted for approval pursuant to this chapter shall bear the engineer's title block required by Title 09, Subtitle 23, Chapter 03 of the Code of Maryland Regulations and the certifications required by the Supplement.

§ 136-22. Inspection schedule and reports.

A. The developer shall notify the Department at least 48 hours before commencing any work in conjunction with site development or the stormwater management plan, and upon completion of the project.

B. Regular inspections shall be made and documented for each ESD planning technique and practice at the stages of construction specified in the Design Manual by the Department, its authorized representative, or certified by an engineer or land surveyor, as appropriate. At a minimum, all ESD and other nonstructural practices shall be inspected upon completion of

final grading, the establishment of permanent stabilization, and before issuance of use and occupancy approval.

C. Written inspection reports shall include:

- (1) The date and location of the inspection;
- (2) Whether construction was in compliance with the approved stormwater management plan;
- (3) Any variations from the approved construction specifications; and
- (4) Any violations that exist.

D. The owner/developer and on-site personnel shall be notified in writing when violations are observed. Written notification shall describe the nature of the violation and the required corrective action.

E. No work shall proceed on the next phase of development until an engineer or land surveyor, as appropriate, has inspected and approved the work previously completed. The developer or property owner shall furnish the City with the results of the inspection reports as soon as possible after completion of each required inspection and no further permits or approvals shall be issued until such reports have been provided to the City.

§ 136-23. Inspection requirements during construction.

A. At a minimum, regular inspections shall be made and documented at the following specified stages of construction:

- (1) For ponds:
 - (a) Upon completion of excavation to subfoundation and when required, installation of structural supports or reinforcement for structures, including but not limited to:
 - [1] Core trenches for structural embankments;
 - [2] Inlet and outlet structures, anti-seep collars or diaphragms, and watertight connectors on pipes; and
 - [3] Trenches for enclosed storm drainage facilities.
 - (b) During placement of structural fill, concrete, and installation of piping and catch basins;
 - (c) During backfill of foundations and trenches;

- (d) During embankment construction; and
- (e) Upon completion of final grading and establishment of permanent stabilization.

(2) For wetlands:

At the stages specified for pond construction in Subsection 136-23A(1) of this section, during and after wetland reservoir area planting, and during the second growing season to verify a vegetation survival rate of at least 50 percent.

(3) For infiltration trenches.

- (a) During excavation to subgrade;
- (b) During placement and backfill of underdrain systems and observation wells;
- (c) During placement of geotextiles and all filter media;
- (d) During construction of appurtenant conveyance systems such as diversion structures, prefilters and filters, inlets, outlets, and flow distribution structures; and
- (e) Upon completion of final grading and establishment of permanent stabilization.

(4) For infiltration basins.

- (a) At the stages specified for pond construction in § 136-23A(1); and
- (b) During placement and backfill of underdrain systems.

(5) For filtering systems.

- (a) During excavation to subgrade;
- (b) During placement and backfill of underdrain systems;
- (c) During placement of geotextiles and all filter media;
- (d) During construction of appurtenant conveyance systems such as flow diversion structures, pre-filters and filters, inlets, outlets, orifices, and flow distribution structures; and
- (e) Upon completion of final grading and establishment of permanent stabilization.

- (6) For open channel systems.
 - (a) During excavation to subgrade;
 - (b) During placement and backfill of underdrain systems for dry swales;
 - (c) During installation of diaphragms, check dams, or weirs; and
 - (d) Upon completion of final grading and establishment of permanent stabilization.

B. The Department may, for enforcement purposes, use any one or a combination of the following actions:

- (1) A notice of violation shall be issued specifying the need for corrective action if stormwater management plan noncompliance is identified;
- (2) A stop work order shall be issued for the site by the Department if a violation persists;
- (3) Bonds or securities shall be withheld or the case may be referred for legal action if reasonable efforts to correct the violation have not been undertaken; or
- (4) In addition to any other sanctions, a civil action or criminal prosecution may be brought against any person in violation of the Stormwater Management Subtitle, the Design Manual, or this chapter.

C. Any step in the enforcement process may be taken at any time, depending on the severity of the violation.

D. Within thirty (30) days of completion of construction, "as-built" plan certification shall be submitted by either a professional engineer or professional land surveyor licensed in the State of Maryland to ensure that ESD planning techniques, treatment practices, and structural stormwater management measures and conveyance systems comply with the specifications contained in the approved plans. At a minimum, "as-built" certification shall include a set of drawings comparing the approved stormwater management plan with what was constructed. The Department may require additional information as it determines necessary to comply with this chapter.

E. The Department shall submit notice of construction completion to the Administration on a form supplied by the Administration for each structural stormwater management practice within 45 days of construction completion. The type, number, total drainage area, and total impervious area treated by all ESD techniques and practices shall be reported to the Administration on a site by site basis. If BMPs requiring SCD approval are constructed, notice of construction completion shall also be submitted to the appropriate SCD.

§ 136-24. Maintenance inspection.

A. The Department shall ensure that preventative maintenance is performed by inspecting all ESD treatment systems and structural stormwater management measures. Inspection shall occur during the first year of operation and at least once every 3 years thereafter. In addition, a maintenance agreement between the owner and the Department shall be executed for privately-owned ESD treatment systems and structural stormwater management measures as described in Section 136-25 of this chapter.

B. Inspection reports shall be maintained by the Department for all ESD treatment practices and structural stormwater management measures.

C. Inspection reports for ESD treatment systems and structural stormwater management measures shall include the following:

- (1) The date of inspection;
- (2) Name of inspector;
- (3) An assessment of the quality of the stormwater management system related to ESD treatment practice efficiency and the control of runoff to the MEP;
- (4) The condition of:
 - (a) Vegetation or filter media;
 - (b) Fences or other safety devices;
 - (c) Spillways, valves, or other control structures;
 - (d) Embankments, slopes, and safety benches;
 - (e) Reservoir or treatment areas;
 - (f) Inlet and outlet channels or structures;
 - (g) Underground drainage;
 - (h) Sediment and debris accumulation in storage and forebay areas;
 - (i) Any nonstructural practices to the extent practicable; and
 - (j) Any other item that could affect the proper function of the stormwater management system.

(5) Description of needed maintenance.

D. Upon notifying an owner of the inspection results, the owner shall have 30 days, or other time frame mutually agreed to between the Department and the owner, to correct the deficiencies discovered. The Department shall conduct a subsequent inspection to ensure completion of the repairs.

E. If repairs are not properly undertaken and completed, enforcement procedures following Section 136-25C of this chapter shall be followed by the Department.

F. If, after an inspection by the Department, the condition of a stormwater management facility is determined to present an immediate danger to public health or safety because of an unsafe condition, improper construction, or poor maintenance, the Department shall take such action as may be necessary to protect the public and make the facility safe. Any cost incurred by the Department shall be assessed against the owner(s), as provided in Section 136-25C of this chapter.

§136-25. Maintenance Agreement.

A. Prior to the issuance of any building permit for which stormwater management is required, the Department shall require the applicant or owner to execute an inspection and maintenance agreement binding on all subsequent owners of land served by a private stormwater management facility. Such agreement shall provide for access to the facility at reasonable times for regular inspections by the Department or its authorized representative to ensure that the facility is maintained in proper working condition to meet design standards.

B. The agreement shall be recorded by the applicant or owner in the land records of Carroll County.

C. The agreement shall also provide that, if after notice by the Department to correct a violation requiring maintenance work, satisfactory corrections are not made by the owner(s) within a reasonable period of time (30 days maximum), the Department may perform all necessary work to place the facility in proper working condition. The owner(s) of the facility shall be assessed the cost of the work and any penalties. This may be accomplished by placing a lien on the property, which may be placed on the tax bill and collected as ordinary taxes.

D. For stormwater management facilities required by this chapter to be transferred to the City upon completion, the agreement shall also provide for a maintenance bond to assure proper maintenance prior to acceptance. The maintenance bond shall be in an amount prescribed by the department and shall be posted at the time of completion of such stormwater management facility. In the event that the City incurs any cost or expense with regard to maintenance of such stormwater management facility as a result of the failure of the developer to so maintain such facility, all such costs and expenses shall be repaid to the City prior to the City accepting such stormwater management facility. In addition, the City may deny the issuing of any building permits and use and occupancy permits within the

development upon default of the developer under this subsection.

§ 136-26. Maintenance responsibility

A. The owner of a property that contains private stormwater management facilities installed pursuant to this chapter, or any other person or agent in control of such property, shall maintain in good condition and promptly repair and restore all ESD practices, grade surfaces, walls, drains, dams and structures, vegetation, erosion and sediment control measures, and other protective devices in perpetuity. Such repairs or restoration and maintenance shall be in accordance with previously approved or newly submitted plans.

B. A maintenance schedule shall be developed for the life of any privately-owned structural stormwater management facility or system of ESD practices and shall state the maintenance to be completed, the time period for completion, and the responsible party what will perform the maintenance. This maintenance schedule shall be printed on the approved stormwater management plan.

C. Stormwater management facilities serving multiple lots in residential subdivisions shall be accepted by the City in accordance with the following procedures and requirements:

(1) Facilities may be accepted one year after all of the houses in the development are completed but no sooner than two years after completion of the stormwater management facilities. At the end of this interim period and prior to acceptance, the department shall certify that the facilities remain in proper operating condition and meet all applicable governmental requirements in effect at the time of initial construction.

(2) A deed to the Mayor and Common Council of Westminster, its successors and assigns shall be executed and delivered to the City, which shall convey the stormwater management facilities and an adequate access road to the City in fee simple (or by such easement acceptable to the City) and shall include a perpetual easement or right-of-way for sufficient access to and from the facilities and a state, county or city street or road. The deed shall include a sufficient maintenance and access area surrounding the structures and facilities as determined by the department.

(3) The property owner shall be responsible for all maintenance of stormwater management facilities as required by the City prior to acceptance by the City.

(4) Prior to final acceptance by the City of the stormwater management facility and appurtenant easements as set forth in this subsection, the property owner shall pay the inspection and maintenance fee required by Section 136-17 of this chapter. Until the fee is paid, no building permits or use and occupancy permits shall be issued for the last 20% of the total number of residential lots shown on the subdivision plat of the area served by the particular stormwater management facility.

§ 136-27. Notice of violation; stop-work orders; denial of permits.

A. When the Department determines that a violation of the approved stormwater management plan has occurred, it shall notify the developer, in writing, of the violation, describe the required corrective action and specify the time period in which to have the violation corrected.

B. If the violation persists after the date specified for corrective action in the notice of violation, the Department shall stop work on the Site. The Department shall determine the extent to which work must be stopped, which may include all work on the site except that work necessary to correct the violation.

C. If reasonable efforts to correct the violation are not undertaken by the developer, the Department shall refer the violation for legal action. The City may also perform the remedial work and make claim against the bond for its expenses and costs.

D. The City may deny the issuance of any permits for any project or property to an applicant when it determines that the applicant is not in compliance with the provisions of any building or grading permit or approved stormwater management or erosion and sediment control plan, or has failed to comply with any other provisions of this chapter.

E. If a person is working without stormwater management approval, the Department shall stop work on the site except activity necessary to provide erosion and sediment control. The stop-work order shall remain in effect until the approval is obtained.

§ 136-28. Penalties established; forms of relief.

Any person convicted of violating the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not more than \$5,000 or imprisonment not exceeding one year, or both, for each and every violation, with costs imposed in the discretion of the court and not to exceed Fifty Thousand Dollars (\$50,000). Each day that the violation continues shall be a separate offense. In addition thereto, the Mayor and Common Council may institute injunctive, mandamus or other appropriate action or proceedings at law or equity for the enforcement of this chapter or to correct violations of this chapter, and any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent, injunctions or mandamus or other appropriate forms of remedy or relief.

§ 136-29. Right to appeal; filing.

Any person aggrieved by the action of any official charged with the enforcement of this chapter, as the result of the disapproval of a properly filed application for a permit, the issuance of a written notice of violation, or an alleged failure to properly enforce this chapter in regard to a specific application shall have the right to appeal the action to the Circuit Court for Carroll County. Such should be taken according to the Maryland Rules of Procedure as set forth in Title 7, Chapter 200.

Section 2 Be it further enacted and ordained by The Mayor and Common Council of Westminster that this Ordinance shall take effect (10) ten days after its passage and approval.

INTRODUCED this ____ day of October, 2010.

Margaret L. Wolf, City Administrator

PASSED this ____ day of _____, 2010.

Margaret L. Wolf, City Administrator

APPROVED this ____ day of _____, 2010.

Kevin R. Utz, Mayor

APPROVED AS TO FORM AND SUFFICIENCY

this ____ day of _____, 2010:

Elissa D. Levan, City Attorney